

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 6:06-CR-258-FL-2

UNITED STATES OF AMERICA,

v.

RICO MOSES,

Defendant.

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ORDER

This matter is before the court on defendant's motion for reconsideration (DE 70) of the court's order denying defendant's motion to reduce sentence, pursuant to 18 U.S.C. § 3582(c). Defendant asks the court to reconsider its determination that no reduction is warranted due to defendant's post-sentencing sanctions, including for fighting and for use of marijuana.


Upon careful reconsideration of the record, the government's opposition to any reduction, and defendant's motion for reconsideration, defendant's motion is GRANTED, but a reduction is warranted only to the extent set forth herein. On the one hand, the court agrees with the government that defendant's infractions involve serious post-sentencing behaviors that impact the court's determination of the nature and seriousness of the danger to the community that may be posed by a reduction in defendant's sentence. Accordingly, the court will not reduce defendant's sentence to the full extent authorized by the amended guideline range.

On the other hand, the court has reconsidered the nature and seriousness of the original offense conduct, the original sentence imposed below the guidelines range, and defendant's largely

positive record following his marijuana infraction, including substantial involvement in educational opportunities and satisfaction of financial sanction. The court also has reconsidered the nature of the sanctions for fighting and the use of marijuana. In light of all the circumstances, the court finds on reconsideration that a reduction in sentence is warranted, but not to the full extent authorized by the guidelines, in accordance with the policy statement in the Guidelines. See USSG 1B1.10(a), comment. (n.1(B)(ii) and (iii)). Defendant's sentence shall be reduced by 12 months, instead of the 39 month reduction allowed by the amended guidelines range.

Accordingly, upon granting defendant's motion for reconsideration, the court VACATES its February 18, 2016, order denying motion for reduction, and the court GRANTS the motion for reduction to the extent set forth herein. The court will enter separately an amended judgment and statement of reasons.

SO ORDERED this the 11th day of April, 2016.



LOUISE W. FLANAGAN
United States District Judge